

HB 1106

USE OF RESTRAINT/SECLUSION BY SCHOOLS STUDY PLAN

Study Mandate

- During the 2014 General Assembly Session, Delegate Patrick Hope introduced House Bill 1106, directing the Commission on Youth, in consultation with the Department of Education and the Department of Behavioral Health and Developmental Services, to review:
 - i. statewide policies and regulations related to seclusion and restraint in public and private elementary and secondary schools; and
 - ii. methods used in other states to reduce and eliminate the use of seclusion and restraint in public and private elementary and secondary schools.
- The Commission is to make recommendations and report its findings to the General Assembly no later than the first day of the 2015 Regular Session of the General Assembly.

Identified Issues

- Seclusion and restraint refer to safety procedures in which a student is isolated from others (seclusion) or physically held (restraint) in response to serious problem behavior that places the student or others at risk of injury or harm.¹
- Special education law and regulations guide the removal of students with disabilities from the classroom. Virginia's private schools for students with disabilities licensed by the Department of Education and the Department of Behavioral Health and Developmental Services have promulgated regulations overseeing seclusion and restraint.² However, there is no statute or regulation specifically governing the use of seclusion and restraint in Virginia's public schools.
- In 2006, the Virginia Department of Education's Office of Special Education Instructional Services issued *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations in Virginia Public Schools Focusing on Physical Restraint and Seclusion*. These Guidelines were updated in 2009. A Superintendent's Memorandum requesting that all school divisions review these Guidelines was distributed to local school divisions.
- Virginia's use of Guidelines means that there is discretion in handling incidents pertaining to the use of seclusion and restraint. The Guidelines recommend training for staff and notifying parents after restraint or seclusion has been utilized, but there is no enforcement of these provisions.
- In 2009, the Department of Education conducted a review to ascertain whether Virginia's school divisions had developed local policies and procedures for restraint and seclusion. At the time of the review, 34 schools had adopted written policies on restraint and seclusion and 4 schools had policies on use of restraint. There were 96 schools that had no written policies on seclusion or restraint but, of these schools, 20 were in the process of developing policies. Many of the school divisions without a policy in place or in development noted that they relied upon the Virginia School Board Association's Policy Service.
- In February of 2014, legislation was introduced by Senator Tom Harkin (D-IA). The Keeping All Children Safe Act (S. 2036) would establish federal minimum standards to limit the use of

¹ Virginia Department of Education. (2009). *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors In Emergency Situations in Virginia Public Schools Focusing on Physical Restraint and Seclusion*.

² 8VAC20-670 et seq. and 12VAC35-105 et seq.

restraint and seclusion in schools. This legislation is similar to HR 1893, introduced by Rep. George Miller (D-CA).

Study Activities

- Interview impacted stakeholders
 - Secretary of Education
 - Board of Education & Board of Education's Advisory Committee on Special Education
 - Superintendent of Public Instruction
 - Virginia Department of Education
 - Department of Behavioral Health and Developmental Services
 - Virginia Board for People with Disabilities
 - ARC of Virginia
 - Virginia PTA
 - Virginia School Boards Association
 - Virginia School Board Attorneys
 - Virginia Education Association
 - Virginia Association of School Superintendents
 - Virginia Association of Elementary School Principals
 - Virginia Association of Secondary School Principals
 - Educators/Guidance Counselors
 - Private School and Residential Facility Representatives
 - Alternative Education Representatives
 - Local Education Agencies
 - Virginia Council of Administrators of Special Education
 - Parent Educational Advocacy Training Center
 - Virginia Association of Specialized Education Facilities
 - Partnership for People with Disabilities
 - Clinicians and School Psychologists
 - Parent and Advocacy Organizations
- Conduct extensive background and literature reviews
 - U.S. Senate's Health, Education, Labor and Pensions Committee Study
 - Substance Abuse and Mental Health Services Administration (SAMHSA)
 - Literature on best practices of other alternatives (e.g., Positive Behavioral Supports)
 - Other states' statutes, regulations, studies, and activities
- Review federal legislation/statutes
 - Individuals with Disabilities Education Act (IDEA)
 - Developmental Disabilities Assistance and Bill of Rights Act
 - Other related federal laws and regulations
- Review Virginia laws and regulations
 - Virginia's Human Rights Regulations
 - Disciplinary statutes in the Code of Virginia
 - Virginia's Regulations Governing Special Education
 - Regulations Governing the Operation of Private Day School for Students with Disabilities
 - Regulations for the Licensing of Providers of Behavioral Health and Developmental Services
 - State Special Education and Student Services' Reports
- Analyze Virginia practices and data
 - Local school divisions' policies on seclusion and restraint

- Model policies from associations
- State and local training activities
- Practices at private schools serving youth with disabilities
- Synthesize findings of literature review and interviews
- Develop findings and recommendations
- Solicit feedback on draft recommendations from impacted stakeholders
- Refine findings and recommendations
- Present findings and recommendations to the Commission on Youth
- Prepare final report